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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/514,199

07/07/2005

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7590 10/07/2008
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EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

10/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/514,199	Applicant(s) MCMILLIN ET AL.	
	Examiner Jennifer E. Novosad	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005 and 11 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 2-13, 16-20, 23, 26-32 and 34-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 14, 15, 21, 22, 24, 25 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/26/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the application filed July 7, 2005 and the election filed August 11, 2008.

Election/Restriction

Applicant's election without traverse of Figures 1-7 in the reply filed on August 11, 2008 is acknowledged, with an indication that claims 1, 14, 15, 21, 22, 24, 25, 33, 37, and 38 are readable thereon. *However*, claims 37 and 38 cannot be part of elected claims since claim 37 depends from a claim (i.e., claim 26) that is non-elected. *Thus*, these claims have been withdrawn.

Accordingly, in addition to claims 37 and 38, claims 2-13, 16-20, 23, 26-32, 34-36, and 39-43 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 14, 15, 21, 22, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Figures 9-12 of U.S. Patent No. 6,811,045 (Masker et al. '045) in view of Figure 1 of Masker et al. '045 and U.S. Patent No. 6,249,509 (Hirata et al. '509).

Art Unit: 3637

Masker et al. '045 disclose, in Figures 9-12, a shelf panel (124); a plastic (see column 5, line 6) rim (122) sized and configured to be secured around the entire periphery of the panel (124); securing means comprising adhesive (128) located intermediate the rim (122) and the panel (124); the assembly is stationary; the rim (122) is of a unitary and integral design (see Figure 10); includes an upwardly projecting backstop (see right side of Figure 11); the rim (122) comprises a downwardly projecting lip (at 148 in Figure 11) having an arcuate cross-section that acts as a bumper and a handle; the rim (122) includes a horizontally disposed section (to the left of 12 in Figure 11) which projects inwardly and terminates in a flat plane, a downwardly projecting section (148) integral with the horizontally disposed section, an additional downwardly projecting section (near 150 in Figure 11) whereby *with respect to claim 14*, the combination of these sections defines a groove and a spatial area, or a slot (see left side of Figure 11), between the horizontally disposed section and the panel (124); a horizontally disposed lower edge (unnumbered - see left side of Figure 11, at the perpendicular corner) depending from a downwardly projecting member, and a plastic stop (unnumbered) depending downwardly from the ledge; a metal frame (126 - see Figure 12) for supporting the panel (124); frame (126) including a forward (144) and a further (144) substantially horizontally disposed frame member, a pair of opposing parallel sideplates (140) and means (i.e., holes) for coupling the frame members (122) to the sideplates (14); the sideplates (140) comprising means (at 154) for removably locking the assembly to a wall; and the sideplates include a flat (at 140) section that is disposed in a groove of the rim (122).

The claims differ from Figures 9-12 of Masker et al. '045 in requiring: (a) the panel to be glass (claim 1); (b) the securing means or adhesive adapted to be heated (claim 1) and to comprise a light cured acrylic or hot melt adhesive (claim 22); and (c) the adhesive to be disposed in the spatial area (claims 21 and 33) or slot (claim 22).

With respect to (a), Masker et al. '045, in Figure 1, disclose the panel being made form glass.

Thus, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have fabricated the panel from glass for ease in manufacture and economy.

With respect to (b), Hirata et al. '509 teach (in column 7, lines 9-11) a UV-curable acrylic resin sealant was used to seal the space between a glass substrate 2 and a protective member.

To one of ordinary skill in the art at the time the invention was made, it would have been obvious to replace the adhesive of Masker et al. '045 with a UV-curable acrylic resin sealant, as taught by Hirata et al. '509, in order to increase the shock absorbency of the shelf to prevent breakage during transport or in use.

With respect to (c), although Masker et al. '045 do not show the adhesive disposed in the slot, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have assembled the assembly in such a way as to dispose the adhesive in the slot, for increased securement between the rim and panel.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Figures 9-12 of Masker et al. '045 in view of Figure 1 of Masker et al. '045 and Hirata et al. '509 as applied to claims 1, 14, 15, 21, 22, and 33 above, and further in view of U.S. Patent No. 5,853,852 (Eichhorn '852).

The claims differ from the above references in requiring the panel to include decorative means comprising frosting or etching.

In Figures 1-4 and column 1, lines 26-28, Eichhorn '852 teaches that several techniques, such as frosting and etching, are known and employed to produce unique and desirable decorative glass sheets.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the glass panel of Masker et al. '45 with a decorative coating by frosting or etching, as taught by Eichhorn '852, in order to give the entire shelving assembly an appealing finish and to hide any undesirable elements of the assembly.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is 571-272-6832. The examiner can normally be reached on Monday-Thursday, 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer E. Novosad/
Primary Examiner, Art Unit 3637

October 1, 2008